IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5910 OF 2006

Rajaram Anandrao Bhande Patil ....Petitioner
V/s.
The State of Maharashtra & Ors. ....Respondents

Mr.R.V. Pai with Mr.Ajit Kocharekar for the Petitioner.

Mrs.M.P. Thakur, AGP for Respondent Nos.1 to 5.

CORAM : F.I. REBELLO &
S.J. VAZIFDAR, JJ.
DATED : 20TH FEBRUARY, 2007.

P.C. :

1. The declaration under Section 6 of the Land Acquisition Act, 1894 (for short "the said Act") in respect of the property survey No.29/4 (part) was issued on 16.1.1975. Out of the total area of 1 acre and 5 gunthas, what is acquired was 0-45-53. The award was passed on 28.3.1977. The possession was taken in the year 1994.

2. It is the contention of the Petitioner that in fact the land in respect of which the declaration was issued and the award passed is not part of the land identified under survey No.29/4 but the land

identified under survey No.29/5. So far as the land identified under survey No.29/5 is concerned, it appears that in the notification issued on 19.2.1980, one of the lands shown is survey No.29/5 of village Borkhal, Taluka Satara, District Satara.

3. The Petitioner herein had filed a suit contending that the said land does not form part of the subject matter of the award. Those proceedings, including the Second Appeal preferred before this Court, being Second Appeal No.669 of 2001 was dismissed by an order dated 30.6.2006, relying on the judgment of the Supreme Court, that proceedings under Section 4 of the said Act and the declaration under Section 6 of the said Act or the award cannot be challenged by way of suit.

. We are not called upon to go into the legality or correctness of the judgment dated 30.6.2006 passed in Second Appeal No.669 of 2001. Suffice it to say that once the declaration is issued under Section 6 of the said Act and that declaration speaks of survey No.29/4 and an award came to be made thereafter, and possession taken, unless and until the declaration was amended, the public purpose so far as the land identified under survey No.29/4 (part) is in

terms of the declaration issued.

4. This therefore is not a fit case for us to exercise the extra-ordinary jurisdiction.

5. The Petition is disposed of accordingly.

(S.J. VAZIFDAR, J.) (F.I. REBELLO, J.)